

§ 80.501 What fuel is subject to the provisions of this subpart?

(a) *Included fuel and additives.* The provisions of this subpart apply to the following fuels and additives except as specified in paragraph (b) of this section:

- (1) Motor vehicle diesel fuel.
- (2) Nonroad, locomotive, or marine diesel fuel.
- (3) Diesel fuel additives.
- (4) Heating oil.
- (5) Other distillate fuels.
- (6) Motor oil that is used as or intended for use as fuel in diesel motor vehicles or nonroad diesel engines or is blended with diesel fuel for use in diesel motor vehicles or nonroad diesel engines, including locomotive and marine diesel engines, at any downstream location.

(b) *Excluded fuel.* The provisions of this subpart do not apply to distillate fuel that is designated for export outside the United States in accordance with § 80.598, identified for export by a transfer document as required under § 80.590, and that is exported.

[69 FR 39168, June 29, 2004]

§ 80.502 What definitions apply for purposes of this subpart?

The definitions of § 80.2 and the following additional definitions apply to this subpart I:

(a) *Entity* means any refiner, importer, distributor, retailer or wholesale-purchaser consumer of any distillate fuel.

(b) *Facility* means any place, or series of places, where an entity produces, imports, or maintains custody of any distillate fuel from the time it is received to the time custody is transferred to another entity, except as described in paragraphs (b)(1) through (b)(4) of this section:

(1) Where an entity maintains custody of a batch of diesel fuel from one place in the distribution system to another place (*e.g.*, from a pipeline to a terminal), all owned by the same entity, both places combined are considered to be one single aggregated facility, except where an entity chooses to treat components of such an aggregated facility as separate facilities. The choice made to treat these places as separate facilities may not be

changed by the entity during any applicable compliance period. Except as specified in paragraph (b)(2) of this section, where compliance requirements depend upon facility-type, the entire facility must comply with the requirements that apply to its components as follows:

(i) If an aggregated facility includes a refinery, the entire facility must comply with the requirements applicable to refineries.

(ii) If an aggregated facility includes a truck loading terminal but not a refinery, the entire facility must comply with the requirements applicable to truck loading terminals.

(iii) *Situations where a refinery is aggregated with a truck loading terminal.*

(A) Where a refinery is aggregated with a truck loading terminal, diesel fuel or other product subject to the requirements of this subpart I produced by such refinery and distributed over the truck terminal rack must be included in refinery batches that may be based on shipments to a truck terminal rack tank or on the total volumes delivered to tanker trucks for a period not to exceed 1 calendar month per batch.

(B) Where a refinery is aggregated with a truck loading terminal, diesel fuel or other product subject to the requirements of this subpart I that were imported or produced by another refinery, and that are distributed through the refinery or truck terminal rack, must be treated as previously designated fuel for which the aggregated facility is responsible for all applicable balance and downgrade requirements under §§ 80.527, 80.598, 80.599 and related recordkeeping and reporting requirements like any other distributor downstream from the refiner or importer.

(2) A refinery or import facility may not be aggregated with facilities that receive fuel from other refineries or import facilities, either directly or indirectly. For example, a refinery may not be aggregated with a terminal that receives any fuel from a common carrier pipeline. However, a refinery may be aggregated with a pipeline and terminal that are owned by the same entity and which receive no fuel from any source other than the refinery. Likewise, a refinery may not be aggregated